

REMARKS

In the non-final Office Action mailed December 24, 2009, the Examiner brought to the Applicant's attention the fact that copies of the Vural and Severini references still had not been furnished by the Applicant. Applicant is tendering herewith a Supplemental Information Disclosure Statement enclosing a copy of those two references.

Also in the non-final Office Action mailed December 24, 2009, Claims 1-4 were rejected under 35 U.S.C. §112, first and second paragraphs, for the reasons set forth on pages 2 and 3 of the non-final Office Action mailed December 24, 2009. By the foregoing proposed amendments to Claims 1 and 3, Applicant believes he has fully addressed both rejections under the first and second paragraphs of 35 U.S.C. §112, and those rejections of Claims 1-4 are therefore now deemed to be moot.

Also in the non-final Office Action mailed December 24, 2009, Claims 1 and 2 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bloukas in view of the combination of McKee and Domazakis; and Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bloukas, McKee and Domazakis, and further in view of Gryczka. For the reasons that follow, Applicant traverses these prior-art-based grounds for rejecting the claims of the present application, as now amended.

The method provided by the McKee reference aims to develop a lighter, brighter color of fresh meat. This aim is accomplished, as disclosed, by quick freezing the fresh meat, then subjecting it to mechanical pressure while it is still frozen. This aim of McKee does not show any similarity to the claims of the present application. McKee does not provide any teaching with regard to the preparation of fermented dry and semi-dry sausages, or to the incorporation of olive oil in lieu of animal fat in such products. The entire treatment of fresh meat, as taught by

McKee, i.e., grinding or comminuting or processing the meat at a temperature below freezing, is carried out only to retain the desirable meat color, and no mention is made of any side-effects regarding the stability of the resulting meat-paste, nor if oil in liquid form is incorporated therein. Therefore, Applicant considers this reference to be irrelevant to the present application.

Regarding the effect of fast freezing on the color of the meat, the Applicant kindly notes that the composition of the atmosphere wherein meat is stored determines the color of the meat, as well as the nature and degree of spoilage it develops. The importance of quick freezing lies in the prevention of large ice crystals, which are normally formed outside the muscle fibers in a slow freezing atmosphere.

Moreover, the combination of McKee with Bloukas does not lead the average skilled person to the subject matter of present Claims 1-2. Bloukas, which according to Applicant's understanding constitutes the closest prior art, deals with the incorporation of oil into fermented sausages, but Bloukas clearly discourages the practice of direct oil addition, for Bloukas teaches that direct oil addition leads to products with undesirable characteristics. In addition, neither Bloukas nor McKee teach the addition of sodium chloride at the beginning of the mixing/chopping process in the preparation of a meat paste suited for fermented dry and semi-dry sausages. Moreover, due to the irrelevancy of the McKee reference, it is not seen why a person of ordinary skill would be tempted to combine the McKee reference with any other reference concerned with the preparation of dry or semi-dry sausages, unless such a person was unduly concerned solely with a color issue.

Domazakis (WO 02/065860) describes the process of preparing meat emulsion-based products, as follows:

“Thin-chopped non-fat meat of temperature 0°C is mixed with H₂O of temperature -2°C.....When the temperature of the mixture is 2°C, we insert the olive oil.....The mixture continues until the temperature is 4°C.”

Therefore, the Examiner should kindly note that the critical temperatures for the ingredients meat, water and oil, in the case of emulsion-type meat products, as described in Domazakis WO 02/065860, differ from what was recited in the Examiner’s analysis of Domazakis, i.e., that the Domazakis meat is at the temperature of -4°C, instead of its actual -2 °C. By comparing Domazakis WO 02/065860 with the present application, it is evident that the critical temperatures for oil addition differs by 4 degrees C between the two.

Moreover, according to Domazakis WO 02/065860, the olive oil containing emulsion-type meat based products described therein are prepared by initially mixing finely chopped meat with water, salt, polyphosphoric salts, preservatives, vegetable proteins, milk proteins and starch in an appropriate mixing apparatus, and subsequently mixing that resulting mixture with olive oil, thereby preparing a finely comminuted meat emulsion with an end temperature of 4°C, which is filled into casings and subjected to a heat treatment at 72°C. Domazakis WO 02/065860, however, neither teaches the average skilled person something about the preparation of fermented sausages, nor teaches about the way of incorporating olive oil in a meat mass suited for the preparation of fermented sausages. Moreover, due to the fact that the chemical and physical characteristics of the fermented sausages are substantially different from those of cooked emulsion-type meat products, Domazakis WO 02/065860 would not have been considered by the average skilled person who was concerned with the use of olive oil in the

preparation of fermented sausages, and thus Domazakis WO 02/065860 should not be considered relevant to the present application.

Regarding the temperature profile of the method disclosed in the present application, both Bloukas and McKee are silent with regard to the use of the temperature -2°C, as an optimum amongst others, for the addition and stable incorporation of oil in a meat paste suited for fermented dry and semi-dry sausages. It also has to be stressed that the temperature profile taught by the present application serves to provide stability to oil incorporation and has nothing to do with the preservation of color, as taught by McKee.

Next, replying to the Examiner's argument that

“it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Bloukas and to mix the ingredients until the desired meat and fat grain is achieved, as taught by WO 02/065860 at least for the purpose of preparing a sausage where the ingredients are well mixed,”

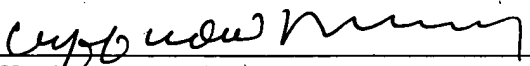
it should be noted that the intended purpose and inventive step of the present application is not to give instructions on how to mix different ingredients until the desired meat and fat grain is achieved. This indeed does not constitute an inventive step, as the extent of mixing (and chopping) depends on the desired meat and fat grain size, provided that enough emulsifying/stabilizing protein eventually becomes available in the mixture. The present application does not make any attempt to claim inventive step with regards to the preferable/desired degree of mixing and/or fat and grain size. The same applies for the feature “stuffing under vacuum,” which constitutes a common practice in sausage making. With regard

to fermentation/maturation/humidity conditions, it should again be stressed that the manufacturing of dry- and semi-dry meat products involves practices known since a long time ago, and the present application makes no attempt to claim as proprietary the fermentation and dehydration processes involved in the making of such products.

On the other hand, even if the average skilled person would have ignored the fact that Domazakis WO 02/065860 refers to a completely different category of meat-based products, and would have chosen to combine certain features from the McKee with the Bloukas, he still would not have arrived at the subject matter of the present application, since none of the cited references gives any hint to the average skilled person with regard to the optimum temperature for olive oil addition (i.e., -2°C), which is an essential prerequisite for the successful preparation of olive oil containing fermented sausages. Moreover, upon reading the cited references, the average skilled person would be taught away from the present invention, for he would be taught to add olive oil prior with the addition of sodium chloride, as a component of a pre-emulsion, such as taught by Bloukas, which is regarded the closest prior art.

For all these foregoing reasons, Applicant respectfully requests entry of the foregoing claim amendments, and reconsideration of the present application in light thereof, and in light of the foregoing remarks, followed by an allowance of all four pending claims, as amended, over all the prior art of record.

Respectfully submitted,

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